

1  
2  
3  
4  
5  
6  
7  
8  
9  
10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 FERNANDO GALLEGOS,

13 Petitioner,

14 v.

15 ISIDRO BACA, et al.,

16 Respondents.  
17

Case No. 3:15-cv-00254-RCJ-CLB

**ORDER GRANTING UNOPPOSED  
MOTION EXTENSION OF TIME  
TO FILE REPLY TO ANSWER**

**(First Request)**

18 COMES NOW the Petitioner, Fernando Gallegos, by and through counsel of  
19 record, Jason F. Carr, hereby files this request extension of time to file his Reply to  
20 Answer. Petitioner requests that this Court grant him an extension of time of sixty-  
21 six (66) days to file the Reply to Answer making the pleading due on Thursday  
22 February 13, 2020.

23 This motion is based upon the attached Points and Authorities and all  
24 pleadings and papers on file herein.  
25  
26

## POINTS AND AUTHORITIES

1  
2       1.       Respondents filed their Answer on in this § 2254 habeas action on  
3 November 8, 2019. (ECF No. 69.) Petitioner's Reply to Answer is currently due  
4 December 9, 2019. Counsel is requesting an extension of time of sixty-six (66) days,  
5 to and including February 13, 2020, to file Gallegos' Reply and Traverse in support  
6 of his amended petition. This is a first request for an extension of time to file that  
7 pleading.

8       2.       Press of business motivates this request for a continuance including,  
9 inter alia: An extension of time to file the Reply is necessary given my obligations in  
10 other cases, including the following matters due this week alone: an Application for  
11 Certificate of Appealability in *Henderson v. Baker*, Ninth Circuit Case Number 19-  
12 17239; an Application for Certificate of Appealability in *Dollar v. Smith*, Ninth  
13 Circuit Case Number 19-16753; and an Application for Certificate of Appealability in  
14 *Duarte v. Williams*, Ninth Circuit Case Number 19-17207.


15       3.       Further, counsel's schedule is complicated by the fact many of his  
16 relatives are coming to Las Vegas, Nevada to celebrate the holiday season.

17       4.       On December 9, 2019, counsel for Petitioner contacted Deputy Attorney  
18 General Allison Herr. Ms. Herr does not object to this request for a continuance,  
19 however, the State requests that counsel for habeas petitioners make clear that  
20 nothing about the decision not to oppose Petitioner's extension request signifies an  
21 implied finding of a basis for tolling any applicable period of limitations or the waiver  
22 of any other procedural defense. Petitioner remains responsible for calculating any  
23 limitations periods and understands that, in granting an extension request, the Court  
24 makes no finding or representation that the petition, any amendments thereto,  
25 and/or any claims contained therein are not subject to dismissal as untimely.  
26

5. Counsel avers that this motion is not filed for the purpose of delay, but in the interests of justice, as well as in the interest of Mr. Gallegos. Counsel respectfully requests that this Court grant the request for an extension of time to file the Reply to February 13, 2020, in order to ensure the effective and thorough representation of Mr. Gallegos in his federal habeas action.

## ORDER

It is hereby **ORDERED** that Petitioner Gallegos' Motion to Extend the time to file a Reply to the Respondents' Answer (ECF No. 70) is **GRANTED**. Petitioner shall file his Reply by **February 13, 2020**.

  
ROBERT C. JONES  
United States District Judge

Dated: December 10, 2019